

**Chapter 8.40****NOISE CONTROL**

(1006-10/63, 1072-11/64, 1354-11/67, 1935-11/74, 2364-5/79, 2379-7/79, Urg. 2434-5/80, 2533-2/82, 2788-9/85, 3131-4/92, 3216-12/93, 3514-12/01)

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**8.40.010 Declaration of policy.** In order to control unnecessary, excessive and annoying sounds emanating from incorporated areas of the City, it is hereby declared to be the policy of the City to prohibit such sounds generated from all sources as specified in this chapter.

It is determined that certain noise levels are detrimental to the public health, welfare and safety and contrary to public interest; therefore, the City Council does ordain and declare that creating, maintaining, causing or allowing to create, maintain or cause any noise in a manner prohibited by, or not in conformity with the provisions of this chapter, is a public nuisance and shall be punishable as such. (2379-7/79)

**8.40.020 Definitions.** The following words, phrases and terms as used in this chapter shall have the meaning as indicated below:

- (a) "Ambient noise level" shall mean the all-encompassing noise level associated with a given environment, being a composite of sounds from all sources, excluding the alleged offensive noise, at the location and approximate time at which a comparison with the alleged offensive noise is to be made.
- (b) "Commercial property" shall mean a parcel of real property which is developed and used either in part or in whole for commercial purposes including, but not limited to, retail and wholesale businesses and professional offices.
- (c) "Cumulative period" shall mean an additive period or time composed of individual time segments which may be continuous or interrupted.
- (d) "Decibel" (db) shall mean a unit which denotes the ratio between two (2) quantities which are proportional to power; the number of decibels corresponding to the ratio of two (2) amounts of power is ten (10) times the logarithm to the base ten (10) of this ratio.

- (e) "Emergency machinery, vehicle or work" shall mean any machinery, vehicle or work used, employed or performed in an effort to protect, provide or restore safe conditions in the community or for the citizenry, or work by private or public utilities when restoring utility service.
- (f) "Fixed noise source" shall mean a stationary device which creates sounds while fixed or motionless, including but not limited to, industrial and commercial machinery and equipment, pumps, fans, compressors, generators, air conditioners and refrigeration equipment.
- (g) "Grading" shall mean any excavating or filling of earth material, or any combination thereof, conducted to prepare said site for construction or the placement of the improvements thereon.
- (h) "Impact noise" shall mean the noise produced by the collision of one mass in motion with a second mass which may be either in motion or at rest.
- (i) "Industrial property" shall mean a parcel of real property which is developed and used in part or in whole for manufacturing purposes including research and development uses.
- (j) "Mobile noise source" shall mean any noise source other than a fixed noise source.
- (k) "Noise level" shall mean the "A" weighted sound pressure level in decibels obtained by using a sound level meter at slow response with a reference pressure of twenty (20) micropascals (micronewtons per square meter). The unit of measurement shall be designated as db(A).
- (l) "Person" shall mean a person, firm, association, co-partnership, joint venture, corporation or any entity, public or private in nature.
- (m) "Residential property" shall mean a parcel of real property which is developed and used either in part or in whole for residential purposes, other than transient uses such as hotels or motels.
- (n) "Predominant tone noise" shall mean a noise characterized by a predominant frequency or frequencies so that other frequencies cannot be readily distinguished.
- (o) "Sound pressure level" of a sound, in decibels, shall mean twenty (20) times the logarithm to the base of ten (10) of the ratio of the pressure of the sound to a reference pressure, which reference pressure shall be explicitly stated. (2379-7/79)

**8.40.030 Noise level measurement criteria.** Any noise level measurements made pursuant to the provisions of this chapter shall be performed using a sound level meter as defined in this chapter. The location selected for measuring exterior noise levels shall be at any point on the property line of the offender or anywhere on the affected property. Interior noise measurements shall be made within the affected unit. The measurement shall be made at a point in the affected unit at least four (4) feet from the wall, ceiling or floor nearest the noise source. All noise level measurements shall be performed in accordance with procedural rules and regulations of the Orange County Health Department. (2379-7/79)

**8.40.040 Designated noise zones.** The properties hereinafter described, whether within or without the City, are hereby assigned to the following noise zones:

Noise Zone 1: All residential properties;

Noise Zone 2: All professional office and public institutional properties;

Noise Zone 3: All commercial properties with the exception of professional office properties; and

Noise Zone 4: All industrial properties. (2379-7/79)

**8.40.050 Exterior noise standards.**

- (a) The following noise standards, unless otherwise specifically indicated, shall apply to all residential property within a designated noise zone:

<b>Exterior Noise Standards</b>		
<b>Noise Zone</b>	<b>Noise Level</b>	<b>Time Period</b>
1	55 db(A)	7 a.m. - 10 p.m.
	50 db(A)	10 p.m. - 7 a.m.
2	55 db(A)	Anytime
3	60 db(A)	Anytime
4	70 db(A)	Anytime

- (b) In the event the alleged offensive noise consists entirely of impact noise, simple tone noise, speech, music, or any combination thereof, each of the above noise levels shall be reduced by five (5) db(A). (2379-8/79, 2788-9/85)

**8.40.060 Exterior noise levels prohibited.** It shall be unlawful for any person at any location within the incorporated area of the City to create any noise, or to allow the creation of any noise on property owned, leased, occupied, or otherwise controlled by such person, which causes the noise level when measured on any residential, public institutional, professional, commercial or industrial property, either within or without the City, to exceed the applicable noise standards:

- (a) For a cumulative period of more than thirty (30) minutes in any hour;
- (b) Plus 5 db(A) for a cumulative period of more than fifteen (15) minutes in any hour;
- (c) Plus 10 db(A) for a cumulative period of more than five (5) minutes in any hour;
- (d) Plus 15 db(A) for a cumulative period of more than one (1) minute in any hour; or
- (e) Plus 20 db(A) for any period of time.

In the event the ambient noise level exceeds any of the first four noise limit categories above, the cumulative period applicable to said category shall be increased to reflect said ambient noise level. In the event the ambient noise level exceeds the fifth noise limit category, the maximum allowable noise level under said category shall be increased to reflect the maximum ambient noise level. (2379-7/79)

**8.40.070 Interior noise standards.**

- (a) The following noise standards, unless otherwise specifically indicated, shall apply to all real property within a designated noise zone:

<b>Interior Noise Standards</b>		
<b>Noise Zone</b>	<b>Noise Level</b>	<b>Time Period</b>
1	55 db(A)	7 a.m. -10 p.m.
	45 db(A)	10 p.m. - 7 a.m.
2, 3, 4	55 db(A)	Anytime

- (b) In the event the alleged offensive noise consists entirely of impact noise, simple tone noise, speech, music, or any combination thereof, each of the above noise levels shall be reduced by five (5) db(A). (2379-7/79, 2788-9/85)

**8.40.080 Interior levels of noise prohibited.** It shall be unlawful for any person at any location within the incorporated area of the City to create any noise, or to allow the creation of any noise on property owned, leased, occupied, or otherwise controlled by such person, which causes the noise level when measured within any other structure on any residential, public institutional, commercial, or industrial property to exceed:

- (a) The noise standard for a cumulative period of more than five minutes in any hour;
- (b) The noise standards plus 5 db(A) for a cumulative period of more than one (1) minute in any hour; or
- (c) The noise standard plus 10 db(a) for any period of time.

In the event the ambient noise level exceeds either of the first two noise limit categories above, the cumulative period applicable to said category shall be increased to reflect said ambient noise level. In the event the ambient noise level exceeds the third noise level, the maximum allowable noise level under said category shall be increased to reflect the maximum ambient noise level.

Each of the noise limits specified above shall be reduced by 5 db(A) for impact or predominant tone noises, or for noises consisting of speech or music.

In the event that the noise source and the affected property are within different noise zones, the noise standards of the affected property shall apply. (2379-7/79)

**8.40.090 Special provisions.** The following activities shall be exempt from the provisions of this chapter:

- (a) School bands, school athletics and school entertainment events, provided such events are conducted on school property or authorized by special permit from the City;
- (b) Activities otherwise lawfully conducted in public parks, public playgrounds and public or private school grounds;
- (c) Any mechanical device, apparatus or equipment used, related to or connected with emergency machinery, vehicle or work;
- (d) Noise sources associated with construction, repair, remodeling, or grading of any real property; provided a permit has been obtained from the City; and provided said activities do not take place between the hours of 8 p.m. and 7 a.m. on weekdays, including Saturday, or at any time on Sunday or a federal holiday.
- (e) All mechanical devices, apparatus or equipment which are utilized for the protection or harvest of agricultural crops during periods of potential or actual frost damage or other adverse weather conditions;
- (f) Mobile noise sources associated with agricultural operations provided such operations do not take place between the hours of 8 p.m. and 7 a.m. on weekdays, including Saturday, or at any time on Sunday or a federal holiday.
- (g) Mobile noise sources associated with agricultural pest control through pesticide application, provided that the application is made in accordance with restricted material permits issued by or regulations enforced by the Agricultural Commissioner;

- (h) Noise sources associated with the maintenance of real property provided said activities take place between the hours of 8 a.m. and 8 p.m. on any day except Sunday or between the hours of 9 a.m. and 6 p.m. on Sunday or a federal holiday;
- (i) Leaf blower shall be governed by section 8.40.095. (3131-4/92)
- (j) Any activity or equipment to the extent that design regulation thereof has been pre-empted by state or federal laws. (2379-7/79)

**8.40.095 Leaf blowers.** (3131-4/92)

- (a) Definitions. As used in this section, the following terms shall have meanings as set forth below: (3131-4/92)
  - (1) "Leaf blower" means any machine, however powered, used to blow leaves, dirt and other debris off sidewalks, driveways, lawns and other surfaces. (3131-4/92)
  - (2) "Parcel" means an area of real property with a separate or distinct number or other designation shown on a plat recorded in the office of the County Recorder. Contiguous parcels owned by the same individual or entity shall be considered one parcel for purposes of this section. (3131-4/92)
- (b) Unlawful to propel debris beyond parcel boundary. It shall be unlawful for any person to use or operate any leaf blower in such a manner as to blow, dispel or make airborne, dust, leaves, grass cuttings, paper, trash or any other type of unattached debris or material, beyond the parcel boundaries of the parcel being cleaned, unless the consent of the adjoining owner or person in possession is obtained. It shall be unlawful for any person to use or operate any leaf blower within the City in such a way as to blow leaves, dirt and other debris onto the public rights-of-way or private property and to allow such debris to remain there in excess of thirty (30) minutes. (3131-4/92)
- (c) Special prohibitions. It shall be unlawful for any person to operate a leaf blower within a residential zone or within one hundred feet of a residential zone of the City of Huntington Beach, except under the following conditions: (3131-4/92)
  - (1) Time restriction. Noise sources associated with the maintenance of real property provided said activities take place between the hours of 8:00 A.M. and 8:00 P.M. on any day except Sunday or between the hours of 9:00 A.M. and 6:00 P.M. on Sunday or a federal holiday. (3131-4/92)
  - (2) Distance restriction. Leaf blowers shall not be operated within a horizontal distance of ten (10) feet of any operable window, door, or mechanical air intake opening or duct; (3131-4/92)
  - (3) Duration of use restriction. Leaf blowers shall not be operated for more than fifteen (15) minutes per hour, per day, on parcels less than one-half acre and no more than thirty (30) minutes per hour on parcels greater than one-half acre up to one acre. Leaf blowers shall not be operated for more than two (2) hours on parcels of one acre or more. (3131-4/92)
  - (4) Number restriction. No person shall operate more than one (1) leaf blower per parcel on one-half acre, no more than two (2) leaf blowers on parcels greater than one-half acre and no more than three (3) leaf blowers on parcels greater than one acre or more. (3131-4/92)
  - (5) The maximum decibel level of 70 dba as measured ten (10) feet from the leaf blower shall not be exceeded. (3131-4/92)

**8.40.100 Schools, hospitals and churches--Special provisions.** It shall be unlawful for any person to create any noise which causes the noise level at any school, hospital or church while same is in use, to exceed the noise limits specified for exterior noise standards in this chapter, or which noise level unreasonably interferes with the use of such institutions or which unreasonably disturbs or annoys patients in the hospital, provided conspicuous signs are displayed in three (3) separate locations within one-tenth (1/10) of a mile of the institution indicating the presence of a school, hospital or church. (2379-7/79)

**8.40.110 Air conditioning, refrigeration--Special provisions.** During a one (1) year period following the effective date of this chapter, the noise level standards specified in this chapter shall be increased by 5 db(A) where the alleged noise source is an air-conditioning apparatus or refrigeration system, which was installed prior to the effective date of this chapter. (2379-7/79)

**8.40.111 Prohibited noises.** Notwithstanding any other provisions of this chapter and in addition thereto, it shall be unlawful for any person to willfully make or continue, or cause to be made or continued, any loud, unnecessary or unusual noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area. (3216-12/93)

The standard which may be considered in determining whether a violation of the provisions of this section exists may include, but not be limited to, the following: (3216-12/93)

- (a) The level of the noise; (3216-12/93)
- (b) Whether the nature of the noise is usual or unusual; (3216-12/93)
- (c) Whether the origin of the noise is natural or unnatural; (3216-12/93)
- (d) The level and intensity of the background noise, if any; (3216-12/93)
- (e) The proximity of the noise to residential sleeping facilities; (3216-12/93)
- (f) The nature and zoning of the area within which the noise emanates; (3216-12/93)
- (g) The density of the inhabitation of the area within which the noise emanates; (3216-12/93)
- (h) The time of the day and night the noise occurs; (3216-12/93)
- (i) The duration of the noise; (3216-12/93)
- (j) Whether the noise is recurrent, intermittent or constant; and (3216-12/93)
- (k) Whether the noise is produced by a commercial or noncommercial activity. (3216-12/93)

**8.40.112 Loud noises.** It shall be unlawful for any person to: (3514-12/01)

- (a) Use, operate, or permit to be operated any radio, receiving set or device, television set, musical instrument, phonograph, CD, DVD, tape player, juke box, or other machine or device for producing or reproducing sound in such a manner as to disturb the peace, quiet, and comfort of other persons. (3514-12/01)
- (b) Make or allow to be made any noise which continues for more than a five minute period between the hours of 10PM and 7AM if such noise is audible for fifty feet or more from the source of the noise. (3514-12/01)
- (c) Maintain, manage, or control any business or residential property in violation of sections (a) or (b). (3514-12/01)

(d) Own, maintain, control, operate, take care or custody of, or otherwise provide any premises, and allow noise to continue after being informed, anytime within the preceding thirty days by the Police Department, that a violation of this chapter has been committed on said premises. (3514-12/01)

(e) Violations of this section are hereby declared a nuisance. (3514-12/01)

**8.40.120 Manner of enforcement.** Except for Sections 8.40.111 and 8.40.112, the Orange County Health Officer and his duly authorized representatives are directed to enforce the provisions of this chapter. The Orange County Health Officer and his duly authorized representatives are authorized pursuant to Penal Code section 836.5 to arrest any person without a warrant when they have reasonable cause to believe that such person has committed a misdemeanor in their presence. (3216-12/93)

If the Orange County Health Officer or his duly authorized representatives conduct db(A) tests or readings for purposes of enforcement, and the noise level is found to exceed those levels stipulated as permissible in this chapter, the owner or operator of the noise source shall be required to pay the cost of the db(A) tests or readings.

No person shall interfere with, oppose or resist any authorized person charged with the enforcement of this chapter while such person is engaged in the performance of his duty. (2379-7/79, 2533-2/82)

**8.40.130 Variance procedure.** The owner or operator of a noise source which violates any of the provisions of this chapter may file an application with the Health Officer for a variance from the provisions thereof wherein said owner or operator shall set forth all actions taken to comply with said provisions, the reasons why immediate compliance cannot be achieved, a proposed method of achieving compliance, and a proposed time schedule for its accomplishment. Said application shall be accompanied by a fee in the amount of seventy-five dollars (\$75).

A separate application shall be filed for each noise source; provided, however, that several mobile sources under common ownership, or several fixed sources on a single property may be combined into one application. Upon receipt of said application and fee, the Health Officer shall refer it with his recommendation thereon in accordance with the provisions of this chapter.

An applicant for a variance shall remain subject to prosecution under the terms of this chapter until a variance is granted. (2379-7/79)

**8.40.140 Noise variance board.** The noise Variance Board shall evaluate all applications for variance from the requirements of this chapter and may grant said variances with respect to time for compliance, subject to such terms, conditions and requirements as it may deem reasonable to achieve maximum compliance with the provisions of this chapter. Said terms, conditions and requirements may include, but shall not be limited to, limitations on noise levels and operating hours. Each such variance shall set forth in detail the approved method of achieving maximum compliance and a time schedule for its accomplishment.

In its determination said board shall consider the magnitude of nuisance caused by the offensive noise; the uses of property within the area of impingement by the noise; the time factors related to study, design, financing and construction of remedial work; the economic factors related to age and useful life of equipment; and the general public interest and welfare. Any variance granted by said board shall be by resolution and shall be transmitted to the Health Officer for enforcement. Any violation of the terms of said variance shall be unlawful.

Members of the Variance Board shall be appointed by, and shall serve at the pleasure of the Orange County board of supervisors. The Variance Board shall adopt reasonable rules and regulations for its own procedures in carrying out its functions under the provisions of this chapter.

Three (3) members shall constitute a quorum and at least three (3) affirmative votes shall be required in support of any action.

The Health Officer, or his appointed representative, shall be a nonvoting ex officio member of the Variance Board, and shall act as secretary of the board.

Meetings of the noise Variance Board shall be held at the call of the secretary and at such times and locations as said board shall determine. All such meetings shall be open to the public.

(2379-7/79)

**8.40.150 Appeals.** Within fifteen (15) days following notice to the City of the decision of the Variance Board on an application, the applicant, the Health Officer, or any member of the City Council, may appeal the decision to the City Council by filing a notice of appeal with the secretary of the Variance Board. In the case of an appeal by the applicant for a variance, the notice of appeal shall be accompanied by a fee to be computed by the secretary on the basis of the estimated cost of preparing the materials required to be forwarded to the City Council as discussed hereafter. If the actual cost of such preparation differs from the estimated cost, the applicant shall pay the difference to the secretary and the secretary shall pay the amount of any excess to the applicant. (2379-7/79)

**8.40.160 Appeals--Notice of hearing.** Within fifteen (15) days following the receipt of a notice of appeal and the appeal fee, the secretary of the Variance Board shall forward to the City Council copies of the application for variance; the recommendation of the Health Officer; the notice of appeal; all evidence concerning said application received by the Variance Board and its decision thereon. In addition, any person may file with the City Council written arguments supporting or attacking said decision and the City Council may, in its discretion, hear oral arguments thereon. The City Clerk shall mail to the applicant a notice of the date set for hearing of the appeal. The notice shall be mailed at least ten (10) days prior to the hearing date.

(2379-7/79)

**8.40.170 Action of Council.** Within sixty (60) days following its receipt of the notice of the appeal, the City Council shall either affirm, modify or reverse the decision of the Variance Board at a duly noticed public hearing. Such decision shall be based upon the City Council's evaluation of the matters submitted to it in light of the powers conferred on the Variance Board and the factors to be considered as set out in this chapter.

As part of its decision, the council may direct the Variance Board to conduct further proceedings on said application. Failure of the City Council to affirm, modify or reverse the decision of the Variance Board within said sixty (60) day period shall constitute affirmation of the board's decision. (2379-7/79)

**8.40.180 Violations--Misdemeanor.** Any person violating any of the provisions of this chapter shall be deemed guilty of a MISDEMEANOR. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such. The provisions of this chapter shall not be construed as permitting conduct not proscribed herein and shall not affect the enforceability of any other applicable provisions of law. (2379-7/79)